REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested.

Claims 48-53, 55, 64-73, and 85-101 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The term hinge width is alleged to be indefinite since the hinge is tapered and thus has multiple widths. Claims 48 and 85 have been amended to remove the reference to the hinge width in order to clarify the claims.

Claims 48-52, 55, 64, 65, 68, 73, 85-89, 91-93, 96, and 101 have been rejected under 35 U.S.C. 102(e) or 103(a) as anticipated by or obvious over Fischell et al. (2004/0102836). The Office Action cites Figure 9 of Fischell as disclosing a tapered hinge. The curved sections 37 of Fischell's Figure 9 embodiment have a width at the center of the curve that is larger than the width at the ends.

Claims 48 and 85 have been amended to define the location of the hinges in the claimed invention. As illustrated and described in the application, the hinges are positioned to concentrate bending of the stent structure at a location away from the apex of the elements where stents traditionally bend. For example, in FIGS. 3D and 4 of the present application, the hinges 265 are located away from an apex of substantially V-shapes formed by the elongated beams at the expanded diameter. In this example, the hinges move the location of bending to a point on the sides of the undulating structure rather than at the apices of the structure.

Fischell teaches tapered curved sections 37 which concentrate bending at the same locations where the bending traditionally occurs, i.e. at the apices of the structures. Fischell does not teach or suggest the expandable medical device or stent as claimed in amended claims 48 and 85. Further, it would not have been obvious to one of ordinary skill in the art to modify the Fischell stent structure to achieve the claimed structure because this would require a teaching to modify Fischell in this manner which is directly contrary to the traditional structure of a stent.

Claims 53 and 90 have been rejected as unpatentable over Fischell et al. in view of Drasler et al. (6,451,051). Drasler has been cited as a teaching of a barb 250 in the embodiment of Figs. 11A-11D. The barb, when released by the stent struts, rotates outward. New claims 104 and 107 have been added that further define the structure adjacent the hinges

having two degrees of freedom of motion as remaining between the elongated beams. This is clearly not taught or suggested by a combination of Fischell and Drasler.

Claims 66, 67, 70, 71, 94, 95, 98, and 99 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Fischell et al. The Office Action alleges that it is old and well known to include teeth and a pawl. However, there is absolutely no teaching of the use of a combination of a hinge, pawl, and teeth. It is this combination that provides an improved locking stent. In the claimed invention, the combination of the pawl and teeth with a hinge and more particularly, a tapered hinge, provide a stent which can be opened and locked to prevent recoil. The hinge allows the pawl the have the spring force needed to engage the teeth. This structure is not taught or suggested by Fischell in combination with an old and well known locking stent.

Accordingly, all of the forgoing claims are now in condition for allowance.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a further telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below. The Commissioner is authorized to charge any fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-3100.

Dated: November 22, 2004

Respectfully submitted,

By _____

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